



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

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### MEMORANDUM

**TO:** Community Services Board, Local Government Department, and Behavioral Health Authority Executive Directors  
State Hospital and Training Center Directors  
State Mental Health, Mental Retardation and Substance Abuse Services Board  
Mental Health, Mental Retardation, and Substance Abuse Services Advocates

**FROM:** Paul R. Gilding  
Community Contracting Director

**SUBJECT:** FY 2006 Performance Contract; Central Office, State Facility, and Community Services Board Partnership Agreement; and Community Services Performance Contract General Requirements Document

**DATE:** May 5, 2005

Attached for your use or information are the FY 2006 Performance Contract, Partnership Agreement, and General Requirements Document; these will be referred to as the contract documents. They are available on the Department's web site at [www.dmhmrzas.virginia.gov](http://www.dmhmrzas.virginia.gov). The Department distributed Letters of Notification and the CARS-ACCESS contract software electronically this week. Letters of Notification contain initial allocations of state and federal funds to community services boards (CSBs), behavioral health authorities, and local government departments with policy-advisory CSBs, all of which are referred to as CSBs or Boards in the contract documents and this memorandum.

The attached contract documents reflect comments received during the 60-day public comment period required by § 37.1-198 of the *Code of Virginia*, the efforts of the Performance Contract Work Group established by the Department and the Virginia Association of Community Services Boards (VACSB), and comments from Department staff. Given the complete rewriting of the performance contract for FY 2004 and positive reaction to the FY 2005 contract, the Department and the Performance Contract Work Group decided to avoid major revisions or changes in the FY 2006 contract, retaining the current contract in substantially the same version, except for some necessary updating. The Office of the Attorney General reviewed these contract documents.

#### ***Changes in the FY 2006 Contract Documents***

The FY 2006 contract documents reflect, for the most part, minor changes, such as improved grammar, increased clarity, and corrected references. Generally, when substance abuse refers to the condition (i.e., a person with substance abuse), the term has been changed to "substance use disorder" to reflect more up-to-date terminology. When the term refers to services, "substance abuse" has been retained.

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Where applicable, "state mental health facilities" is changed to "state hospitals," "state mental retardation facilities" is changed to "training centers," "state mental health and mental retardation facilities" is shortened to "state facilities," and "pre-discharge planning" is changed to "discharge planning" to reflect changes in the revision of Title 37.1 of the *Code of Virginia*. A suggestion was made to reflect in this contract all of the specific changes resulting from the Title 37.1 revision (e.g., specific *Code* section citations, all of which will change in Title 37.2). However, revised Title 37.2 will not become effective until October 1, 2005. The Department will reflect the changed *Code* section citations in the FY 2007 contract documents. Also, "Targeted Case Management" is inserted in several places next to "State Plan Option (SPO)" in listings of Medicaid initiatives because the SPO does not include targeted case management, which is a separate service classification at the Department of Medical Assistance Services. Some of the more significant changes in the FY 2006 contract are listed below.

### **Performance Contract Changes**

1. Priority populations is replaced with references to SMI, SED, At-Risk of SED, MR, Substance Dependence, and Substance Abuse in sections 4.c.4.) and 5.) and 4.d on page 4, section 5.a on page 4, and section 6.c.2.) c.) on page 7.
2. Section 6.a on page 5 is reworded to reflect the elimination of state facility bed targets pursuant to the revision of Title 37.1 of the *Code of Virginia*.
3. Sections 6.c.1.) and 7.d.2.) on pages 6 and 10 include references to the CCS 2 Data Element Definitions developed by the VACSB Data Management Committee and Department staff.
4. Sections 6.c.3.) and 7.d.1.) on pages 7 and 9 eliminate references to the ICDE, which has been replaced by the CCS 2.
5. Sections 6.f. and 7.g. on pages 8 and 11 contain new language about changes in the General Requirements Document, and "administrative rules" is stricken as redundant in each section.
6. Sections 6.g. and 7.i. on pages 8 and 11 include new language about Regional Program Procedures that are contained in a new Exhibit J. Exhibit J reflects the Regional Programs Work Group Report.
7. In several places, specific references to the VACSB Data Management Committee are included.
8. Most of the items in section 10 on page 14 are deleted (having been completed or subsumed under other activities), and a new item about evidence-based practices is added.
9. Items 6 and 7 of Exhibit G are deleted since item 6 is duplicative of the signature page and item 7 is no longer needed; the requirement for local government acceptance of funds has been deleted from the Appropriation Act. Please note the Chapter 75 of the Virginia Acts of Assembly - 2005 Session (House Bill 1938) amended § 37.1-197 of the *Code of Virginia* for an operating Board to have authority, notwithstanding any provision of law to the contrary, to receive state and federal funds directly from the Department and act as its own fiscal agent, when authorized to do so by the governing body of each city or county that established it. If the Board has been so authorized, it should complete the first page of Exhibit G to indicate that it is its own fiscal agent.

### **Partnership Agreement Changes**

1. On page 1, "govern" is changed to "describe" in the next to the last paragraph.
2. Numerous language changes are made to reflect the new Vision Statement, included on page 4.
3. "Consumer-focused" is inserted next to "community-based" in several places, based on the recommendation of the System Leadership Council

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### **General Requirements Document Changes**

1. Section I.C. contains parallel language to that in sections 6.f. and 7.g. of the performance contract about changes in the General Requirements Document.
2. Sections III.A.2. and 3. clarify responsibilities for continuity of care and preadmission screening.
3. Section III.A.6.b. on page 4 is revised to reflect current practice for the Uniform Cost Report.
4. Section III.A.6.c. on page 4 is revised to delete the requirement for operating Boards to publish statements of their financial condition in local newspapers.
5. Section III.A.6.k is added on page 6 to include language about balances of unspent funds.
6. Section III.A.10.b. on page 10 is revised to add a reference to the CCS 2.
7. Sections III.A.16.a. and b. on page 12 are revised to insert "or arrange for the provision of" to reflect situations where the CSB may not be providing services directly but is still responsible for arranging their provision. This parallels existing language in section III.A.16.d. on that page.
8. Section III.A.18 on page 13 is revised to insert a definition of a subcontract.
9. Section IV.A.8. is inserted on page 17 to add a provision about the Licensing Review Protocol for CARF-Accredited Board Outpatient and Day Support Services.
10. Appendix A (Continuity of Care) is revised in many places to reflect current terminology.
11. Appendix A, section II.B.1. on page 25 is revised to conform to similar language in sections II.B.2. and 4, adding "to the extent practicable."
12. Appendix C is revised on page 42 to add language about faith-based service providers.

All of the contract's Exhibit A will be submitted electronically, using CARS-ACCESS software supplied by the Department. More detailed information about which parts of the contract must be submitted on paper is contained in the Performance Contract Process, Exhibit E of the contract. CARS-ACCESS also contains Table 2: FY 2006 Board Management Salary Costs, which enables CSBs and the Department to respond to the requirements in § 37.1-197 of the *Code of Virginia*.

The Department is distributing FY 2006 contract documents electronically, rather than as paper copies by mail. This enables the Department to distribute these contract documents more quickly and easily and allows recipients to distribute the documents to others more rapidly and efficiently.

To be accepted for processing by the Department, a performance contract must satisfy the criteria in Exhibits E and I of the contract.

1. Exhibits A and H (first two pages) must be submitted to the Department's Office of Information Technology Services using the CARS-ACCESS software and must be complete and accurate.
2. Since the contract is being distributed electronically to CSBs, the parts of the contract that are submitted on paper should be printed, signed where necessary, and mailed to the Office of Community Contracting at the same time that Exhibits A and H are submitted. These parts include: the signature page of the contract body (page 15), the Board's current organization chart (the third page of Exhibit H); Exhibit F (two pages), the first page of Exhibit G, and Exhibit D, if applicable. The second page of Exhibit G must be submitted as soon as possible and no later than the last business day in September. The Department must receive all parts of the contract that are submitted on paper before a contract submission will be considered to be complete.
3. Exhibit A must conform to the allocations of state and federal funds in the Letter of Notification enclosures, unless amounts have been revised by or changes negotiated with the Department and confirmed by the Department in writing. Revenues must equal expenses on all contract forms.

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Contracts must contain actual appropriated amounts of local matching funds. If a CSB cannot include the minimum 10 percent local matching funds in its contract, it must submit a written request for a waiver of the matching funds requirement, pursuant to § 37.1-199 of the *Code of Virginia*, to the Office of Community Contracting with its contract. More information about the waiver request is contained in an attachment to this memorandum.

The FY 2006 contract and other materials described above are due in the Department's Office of Community Contracting by **June 24, 2005**, except for Exhibits A and H (the first two pages), which are submitted to the Department's Office of Information Technology Services by that date. More detailed information about submitting Exhibits A and H (the first two pages) in CARS-ACCESS will be provided in the Performance Contract Workshops, conducted by Department staff during May.

Section 37.1-198 of the *Code of Virginia* requires that the CSB make its proposed performance contract available for public review and solicit public comment for a period of 30 days before submitting it for the recommendations (action) of the CSB's board of directors. That same *Code* section authorizes the Department to provide up to five semi-monthly payments of state and federal funds to allow sufficient time to complete public review and comment, local government approval, and Department negotiation and approval of the contract.

The Performance Contract Process (Exhibit E in the contract) automatically provides the first two semi-monthly payments to all CSBs, whether or not a contract has been submitted. The Process conditions the next three semi-monthly payments (two in August and the first in September) on the Department's receipt of a complete performance contract. Once a performance contract is received in the Department, the CSB's Community Contracting Administrator will review it and notify the CSB within five working days that it is or is not accepted for review by the Department. Unacceptable contracts will need to be revised before the Department will process them. For CSBs, please call your Community Contracting Administrator if you have any questions about this package. If other recipients of this memorandum and the attached documents have any questions, please call Paul Gilding, the Department's Director of Community Contracting, at (804) 786-4982 or e-mail him at [paul.gilding@co.dmhmrzas.virginia.gov](mailto:paul.gilding@co.dmhmrzas.virginia.gov).

PRG/prg

Enclosures (4)

pc:	Leslie M. Anderson	Neila L. Gunter	Rosanna G. Roberts
	William C. Armistead	Cynthia A. Hatch	Joel B. Rothenberg
	Kenneth B. Batten	Jane D. Hickey	Robert S. Schmid
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	Marion Y. Greenfield	James S. Reinhard, M.D.	Susan E. Massart
	Kenneth M. Gunn, Jr.	Shirley G. Ricks	Janet Vogelgesang

## Minimum Ten Percent Local Matching Funds Waiver Request Attachment

A Board should maintain its local matching funds at least at the same level as that shown in its FY 2005 final performance contract revision. The 2005 Appropriation Act prohibits using state funds to supplant local governmental funding for existing services. Board includes operating and administrative policy community services boards (CSBs), local government departments with policy-advisory CSBs, and behavioral health authorities.

If a Board is not able to include at least the minimum 10 percent local matching funds, required by § 37.1-199 of the *Code of Virginia* and State Board Policy 4010, in its original performance contract, any subsequent contract revision, or its fourth quarter reports, it must submit a written request for a waiver of that requirement, pursuant to § 37.1-199 of the *Code of Virginia* and State Board Policy 4010, to the Office of Community Contracting with the original or revised contract or fourth quarter reports.

In accordance with sections 6.d.3.), f. and g. and 7.e.3.), g, and i., if a Board's participation in the DAP, its receipt of reinvestment funds, or its participation in a regional program, as defined in Exhibit J of the contract, causes it to be out of compliance with the 10 percent local matching funds requirement in § 37.1-199 of the *Code of Virginia*, the Department will grant an automatic waiver of that requirement, related to the funds for the DAP, reinvestment program or regional program. The Board will not have to submit a written request for a waiver in these circumstances, and the Department will document the automatic waiver in a letter to the Board.

1. State Board Policy 4010 defines acceptable local matching funds as local government appropriations, philanthropic cash contributions from organizations and individuals, in-kind contributions of space, equipment, professional services (which the Board would otherwise have to pay for), and, in certain circumstances, interest revenue. All other revenues, including fees, federal grants, and other funds, as well as uncompensated volunteer services, are not acceptable as local matching funds.
2. Section 37.1-199 of the *Code of Virginia* states that allocations of state funds to a Board for salaries and other operational costs shall not exceed 90 percent of the total amount of state and local matching funds provided for these expenses. This provision effectively defines the 10 percent minimum amount of local matching funds as 10 percent of the total amount of state and local matching funds.
3. The written waiver request must include an explanation of each local government's inability to provide sufficient local matching funds at this time. This written explanation could include, among other circumstances, the following factors:
  - a. an unusually high unemployment rate, compared with the statewide or regional average unemployment rate;
  - b. a decreasing tax base or declining tax revenues;
  - c. the existence of local government budget deficits; or
  - d. major unanticipated local government capital or operating expenditures (e.g., flood damage).
4. Additionally, the waiver request must include information and documentation about the Board's efforts to obtain sufficient local matching funds. Examples of such efforts could include newspaper articles, letters from Board members to local governing bodies outlining statutory matching funds requirements, and Board resolutions.
5. Finally, the waiver request must include a copy of the Board's budget request that was submitted to each local government and a copy or description of the local government's response to the request.